

### **REMARKS**

This responds to the Office Action mailed on May 13, 2008.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1 – 15 are now pending in this application.

#### *Interview Summary*

Applicant thanks Examiner Kunal Langhnoja as well as his Supervisor Scott Beliveau for the courtesy of a telephone interview on 24 June 2008 with Applicant's representative Georgiy L. Khayet. The arguments presented herein are the same arguments presented during the examiner's interview and found persuasive by the Supervisor. Applicant respectfully requests the rejection made in the Office Action to be withdrawn and the next Office Action to be nonfinal.

#### *§103 Rejection of the Claims*

Claims 1 – 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak et al (2003/0097655), in view of Florin et al. (United States Patent No. 7,134,131). Applicant respectfully traverses these rejections.

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. In re Young<sup>1</sup>. Moreover, in evaluating such references it is proper to take into account not only the specific teachings of the references but also the inferences, which one skilled in the art would reasonably be expected to draw therefrom. In re Preda<sup>2</sup>. Thus, what is required in the analysis is "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" and not "precise teachings directed to the specific subject matter of the challenged claim" when inferences and creative steps that a person of ordinary skill in the art would employ are taken into consideration<sup>3</sup>. KSR Int'l Co. v. Teleflex Inc.

Independent claim 1 is used illustratively below to discuss the patentability of independent claims 1, 2, and 7 over Novak in view of Florin.

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<sup>1</sup> 927 F.2d 588,591,18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413,425,208 USPQ 87 1, 881 (CCPA 1981)

<sup>2</sup> 401 F.2d 825,826, 159 USPQ 342,344 (CCPA 1968)

<sup>3</sup> 127 S. Ct. 1727,82 USPQ2d 1385,1396 (2007)

Concerning claims 1, 2, and 7:

Claim 1 includes the following limitations:

*“the receiver is programmed to make the first code available on the display device, and the system further includes a terminal for creating a transaction token, including an interface to a client secure device, wherein the terminal includes a user interface for entering the first code, and is arranged to create the transaction token from the entered first code in co-operation with the client secure device”*

The Office Action admits that Novak does not disclose the foregoing limitations of independent claim 1<sup>4</sup>. However, the Office Action alleges that Florin teaches what Novak is lacking. Novak relates to a system for selectively viewing and interacting with programs and services from a number of program/service sources and a control device for controlling the system<sup>5</sup>. The Office Action refers to Figures 1, 40, 41 and Col.23, lines 25-55 of Florin to support its allegations.

In Column 23, Lines 25 – 55 Florin recites:

*As shown in FIG. 41, upon the selection of the "ticket" icon 388, the CPU 63 generates and displays on the screen 180 a request for the user to input a "movie pass" password using the numeric keypad 176 of the remote control device 60, After entering the personal identification number (PIN) using the numeric keypad 176, causing a confirmation sound to be played and confirmation symbols such as asterisks to fill in a blank confirmation display 425, user depresses the ok button 178 or the select button 155 on the remote control device 60 to order and view the pay-per-view movie. As shown in FIG. 42, transceiver 54 then displays the ordered program if it is available, or displays a message informing the viewer that the pay-per-view movie will begin screening within X number of minutes. In operation, depressing the ok button 178 or the 40 select button 155 subsequent to the entering of the movie pass personal identification number (PIN) results in the CPU 63 providing a signal to the cable service provider 50, over the T/T cable 52 using one of the back channels 102 (See FIG. 3a). It will further be appreciated that during the waiting period prior to the transmission of the pay-per-view movie, additional trailers and other previews may be displayed to the user on the screen 180. It will also be noted that if the user incorrectly enters his/her movie*

<sup>4</sup> Office Action of May 13 2008, Page 3

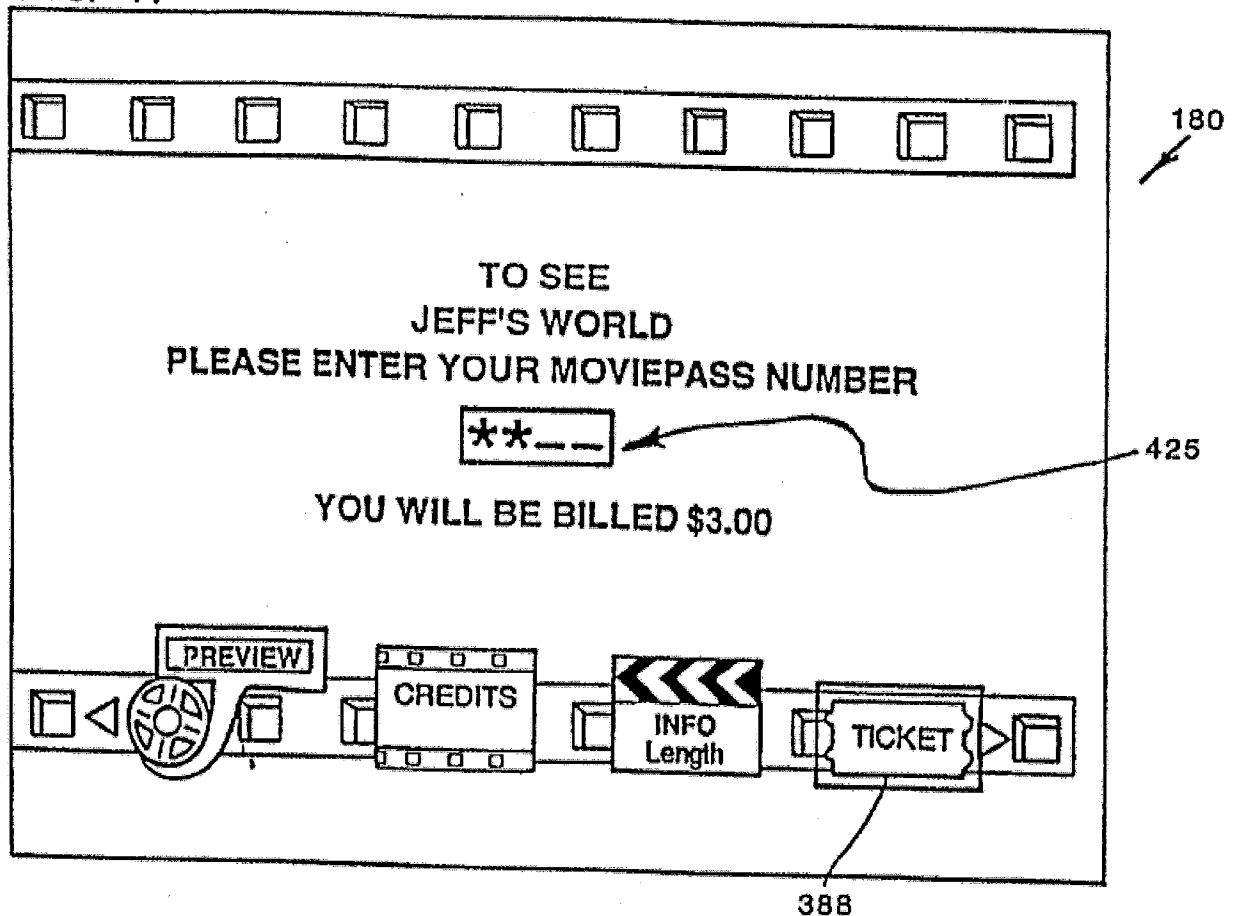
<sup>5</sup> Florin, col 1, lines 26-29

*pass PIN number, pressing the clear button 177 on the numeric keypad 176 allows them to clear the confirmation display 425 and start over again. It will also be appreciated that other pay-per-view interfaces may be designed and implemented using the teachings of the present invention on general-purpose audiovisual user interface*

The device depicted in Figures 1, 40, and 41 of Novak is a conventional remote control. The remote control, according to the language cited by the Office Action, is used to remotely enter a "movie pass" password for a selected pay-per-view movie in order to start screening.

The Office Action specifically maintains that "*and is arranged to create the transaction token from the entered first code*" limitation of independent claim 1 is disclosed by reference number 425 of Novak.

FIG. 41



Applicant respectfully submits that Florin does not teach a *transaction token*, much less *creation of the transaction token from the entered first code*. Reference number 435 of Florin is

merely pointing to a confirmation display, (which shows *asterisks* to provide a visual representation of a “movie pass”). The “movie pass” password is apparently predetermined since Florin is silent with respect to how the “movie pass” is created. Accordingly, the “movie pass” of Florin cannot teach a “transaction token” because independent claim 1 requires creation of *the transaction token from the entered first code*.

Moreover, assuming, *arguendo*, that *entering the movie pass* of Florin can be equated to *the entered first code* as recited in independent claim 1, the “content request” that occurs subsequent to entry of the movie pass password in Florin is not described as including creation of a *transaction token*. Florin (in the language cited below) effectively states that once the movie pass is entered the ordered program is displayed.

“[g]enerates and displays on the screen 180 a request for the user to input a “movie pass” password using the numeric keypad 176 or the remote control device 60. After entering after entering the personal identification number (PIN) using the numeric keypad 176.... the user depresses the ok button 178 or the select button 155 on the remote control device 60 to order and view the pay-per-view movie. As shown in FIG. 42, transceiver 54 then displays the ordered program if it is available<sup>6</sup>”

Thus, creation of a *transaction token* is not explicitly shown or described in Florin. Furthermore, merely teaching a transaction token would not be enough to teach the relevant limitations of independent claim 1 because independent claim 1 requires a *terminal for creating a transaction token, including an interface to a client secure device, wherein the terminal includes a user interface for entering the first code* in order to create *the transaction token from the entered first code*. Applicants respectfully submit that the *terminal* and the *display device* of the independent claim 1 are two distinct elements whereas Florin is related to a single transceiver coupled to a display utilized to both receive information from a server and transmit the movie pass to the server<sup>7</sup>. Florin, therefore, cannot be said to teach a *terminal for creating a transaction token* because in Florin the same device (a transceiver coupled to a display) would be used for both *entering the first code* and *creating a transaction token*. Moreover, Florin fails to teach a *client secure device*, much less a *terminal for creating a transaction token, including an interface to a client secure device*.

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<sup>6</sup> Florin, col 23, lines 27-32

<sup>7</sup> Florin, col 3, lines 10-20

Because Florin fails to explicitly disclose a *transaction token* and a *terminal for creating a transaction token, including an interface to a client secure device*, Florin cannot be said to teach or suggest the independent claim 1.

Furthermore, Applicant, in the response to the Office Action of December 5, 2007 argued that Novak did not disclose what is lacking from Florin. Because an anticipation rejection based on Novak was withdrawn, Applicant assumes that the Examiner was persuaded by the argument.

Thus, even when combined, Novak and Florin cannot be said to suggest to one of ordinary skill in the art the above quoted limitations of independent claim 1 or provide a basis for inferring the above quoted limitations of claim 1. Having shown that at least Florin does not disclose the elements of independent claim 1 alleged in the Office Action, it is unclear what rational underpinning could possibly support the legal conclusion of obviousness of the limitations of independent claim 1. Specifically, the MPEP states that Office personnel *must explain why the difference(s) between the prior art and the claimed invention would have been obvious* (emphasis added) to one of ordinary skill in the art. MPEP § 2141.

Applicant respectfully points out that no such explanation is provided in the Office Action. Indeed, the Office Action is silent with respect to why the differences between the combination of Novak and Florin and the claimed invention would have been obvious to one of ordinary skill in the art at the time of invention. Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness. Accordingly, Applicant respectfully requests that the obviousness rejection of claim 1 be withdrawn.

Independent claims 2 and 7 are of scope similar to the scope of independent claim 1. In view of the arguments presented above with respect to claim 1, Applicant respectfully requests the obviousness rejection of claims 2 and 7 be withdrawn.

Concerning claims 3 – 6 and 8 – 15:

Claims 3 – 6 and 8 – 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak in view of Florin.

Applicant respectfully submits that the rejection of claims 3 – 6 and 8 – 15 under 35 U.S.C. § 103 is defective because a person of ordinary skill in the relevant field when determining the scope and content of the cited documents and understanding the differences

between the cited documents and the rejected claims would not conclude that the claims are obvious.

Applicant submits Novak and Florin fail to disclose or suggest elements 3 – 6 and 8 – 15 because Novak and Florin fail to disclose elements of independent claims 1, 2 and 7 from which claims 3 – 6 and 8 – 15 depend directly or indirectly. Moreover, the Office Action has failed to explain why the differences between the combination of Novak and Florin and the rejected claims would render the rejected claims obvious to one of ordinary skill in the art.

For the above reasons Applicant respectfully requests that the obviousness rejection of claims 3 – 6 and 8 – 15 be withdrawn.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's undersigned attorney at 408-278-4051 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date July 30, 2008

By 

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30<sup>th</sup> day of July 2008.

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